

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TERRI L. CHRISTIAN

Plaintiff,

v.

ABM MID ATLANTIC, INC.

Defendant.

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C.A. No.: 08 - 221

JURY TRIAL DEMANDED

**COMPLAINT**

**PARTIES**

1. Plaintiff, Terri L. Christian ("Plaintiff"), is a resident of Delaware residing at 2 Baylis St, New Castle, Delaware 19720.

2. ABM MID ATLANTIC, Inc. ("ABM") is a Delaware corporation. Subject to service of process through its registered agent, The Corporation Trust Company at 1209 Orange St, Wilmington, DE, 19801. ABM provides janitorial, parking, engineering, security, lighting and mechanical services for commercial, industrial, institutional, and retail facilities in the United States.

**JURISDICTION**

3. This is a Complaint for pervasive race discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(g), 42 U.S.C. § 1983 and a common law, breach of the covenant of good faith and fair dealing.

**FACTS**

4. Plaintiff began her employment with ABM on December 17, 1999.

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DISTRICT OF DELAWARE  
2008 APR 18 PM 12:15

5. At the time of her employment, Plaintiff had been married to Thomas C. Christian, a Caucasian male, for twenty-three years.

6. Plaintiff worked for ABM as a cleaner. Her responsibilities included performing basic cleaning and janitorial duties at various assigned locations.

7. Her primary responsibility during her employment with ABM was to provide services to Wilmington College in New Castle, Delaware.

8. During the first four years of her employment with Wilmington College, Plaintiff was assigned to work at the College's Main Campus, located at 320 N DuPont Hwy, New Castle, DE 19720.

9. Thereafter plaintiff worked at another Wilmington College site, the Wilson Graduate Center, which is located at 31 Read's Way, New Castle, DE 19720 for three years.

10. While employed with ABM, Plaintiff worked with another female employee, Maria Rodriguez ("Ms. Rodriguez"). Rodriguez, a Hispanic female, performed similar cleaning and janitorial services at Wilmington College, while employed with ABM.

11. An African-American male, Gary Cooper ("Cooper"), worked for ABM as a Manager and served as a supervisor of Plaintiff and Rodriguez.

12. During Plaintiff's employment with ABM, Cooper engaged in racially inappropriate conversations with Plaintiff.

13. Cooper inquired about her marital status and questioned Plaintiff, "what are you married to a white man for?"

14. In addition to his comments on her marriage, he informed Plaintiff that

“black people are lazy” and that he “w[ould] not hire any more black people.”

15. Cooper also expressed his desire to limit the numbers of African-American ABM employees when he stated to Plaintiff, “when I get rid of you, there will be no more blacks because they don’t work like the Spanish.”

16. While employed with ABM at the Wilson Graduate Center Wilmington College site, Rodriguez became aware of an affair between Cooper and another ABM employee stationed at Wilmington College.

17. The affair between Cooper and this ABM employee caused an increased workload for Rodriguez because the other employee would neglect her responsibilities, which forced Rodriguez to take on more work.

18. In September 2006, Rodriguez contacted Magali Munoz (“Munoz”), the site supervisor for Wilmington College, to inform her of the affair and the resulting workload increase that she experienced.

19. Munoz requested that both Plaintiff and Rodriguez attend a meeting at another worksite to discuss Cooper.

20. As instructed, Plaintiff and Rodriguez left the Wilmington College site to attend the meeting regarding Cooper on or about September 25, 2006.

21. After Plaintiff and Rodriguez arrived at the site of the meeting, they approached the building where the meeting was to be held through the parking lot. At this time, Cooper arrived, and upon seeing them in the parking lot, questioned what they were doing away from their jobs.

22. Cooper informed Plaintiff and Rodriguez that they were not supposed to leave their worksite, that there would be no meeting and that they should leave the

property before he contacted security.

23. Around September 25, 2006, Cooper, acting on behalf of ABM, terminated the employment of both Plaintiff and Rodriguez on the grounds of job abandonment.

24. Mark Pass ("Pass"), Regional Director of Human Resources for ABM, initiated an investigation into the reason for the termination of Plaintiff and Rodriguez's employment with ABM.

25. Pass allowed Plaintiff to receive additional paychecks for three weeks after the date of her termination.

26. Pass contacted Plaintiff to notify her that she could return to her job with ABM in or around November 2006.

27. Plaintiff was instructed to contact Ted Johnson ("Johnson"), the man who replaced Cooper as the supervisor of the Wilmington College site, before restarting her employment with ABM.

28. Upon contacting Johnson, he informed Plaintiff that at the request of the client, neither she nor Rodriguez was welcome to rejoin the ABM staff at Wilmington College's Wilson Graduate Center.

29. ABM continued Rodriguez's employment at another ABM site.

30. Rodriguez rejoined the ABM workforce shortly after her termination, in or about October 2006.

31. ABM never rehired Plaintiff and as a result, Plaintiff's position with ABM was never reinstated.

32. Cooper's employment with ABM was terminated in or about November

2006 when Pass discovered that Cooper was stealing from ABM.

33. On or about June 4, 2007, Plaintiff filed a Charge of Discrimination based on race with the Delaware Department of Labor (“DDOL”) and the Equal Employment Opportunity Commission (“EEOC”) against Defendant.

34. On or about January 22, 2008, the EEOC concluded its investigation and issued Plaintiff a Notice of Suit Rights, which are attached hereto as Exhibit 1.

**COUNT ONE**  
**Title VII - Racial Discrimination**

35. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 34 of this Complaint by reference as though fully set forth at length herein.

36. The practices of Defendant as complained of above, have/had the effect of depriving Plaintiff of equal employment opportunities and otherwise affect/affected her employment because of her race. The practices employed by Defendant were intentional and were done with malice and/or reckless indifference to the federally-protected rights of Plaintiff.

37. As a direct and proximate result of said acts of Defendant, Plaintiff has suffered, and continues to suffer, loss of employment opportunities, loss of income, loss of other employment benefits and has suffered, and continues to suffer, distress, humiliation, great expense, embarrassment and damages to her reputation.

38. Defendant’s discrimination was willful, wanton and malicious. As a result, Plaintiff is entitled to an award of compensatory and punitive damages.

**WHEREFORE**, Plaintiff respectfully requests that this Court:

(a) Issue a judgment against Defendant in Plaintiff’s favor, providing appropriate back pay with pre-judgment interest, in amounts to be determined at trial, and

other affirmative relief necessary for damages suffered by Plaintiff and to eradicate the effects of Defendant's actions and unlawful employment practices;


(b) Issue a judgment against Defendant in Plaintiff's favor, ordering Defendant to provide compensation for non-pecuniary losses, including pain, suffering, and humiliation in amounts to be determined at trial, and other affirmative relief necessary for damages suffered by Plaintiff and to eradicate the effects of Defendant's actions and unlawful employment practices;

(c) Issue a judgment against Defendant in Plaintiff's favor, ordering Defendant to provide compensation for past and future pecuniary losses, in amounts to be determined at trial;

(d) Issue a judgment against Defendant, and in Plaintiff's favor, ordering Defendant to pay punitive damages for its malicious and/or reckless conduct in amounts to be determined at trial;

(e) Issue a judgment against Defendant in Plaintiff's favor, ordering Defendant to pay the costs of reasonable attorneys' fees and expenses as provided by 42 U.S.C. § 2000e-5(f)(1) and (3); and

(f) Issue a judgment against Defendant in Plaintiff's favor, for damages suffered by Plaintiff as a result of Defendant's actions, including, but not limited to, back pay, front pay, benefits (both retroactively and prospectively), advancement in rank, compensatory damages, punitive damages, attorneys' fees, the cost of this litigation, pre- and post-judgment interest and such other further relief as this Honorable Court deems just and proper.

  
TERRI CHRISTIAN, *pro se*  
2 Baylis Street  
New Castle, DE 19720

DATED: April 21, 2008



EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

08 - 221

**DISMISSAL AND NOTICE OF RIGHTS**

To: Terri L. Christian  
38 Christiana Crossing  
Newark, DE 19702

From: Philadelphia District Office  
801 Market Street  
Suite 1300  
Philadelphia, PA 19107

RECEIVED  
JAN 28 2008



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

17C-2007-00800

Legal Unit

(215) 440-2828

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this Notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

*Marie M. Tomasso*

Enclosure(s)

Marie M. Tomasso,  
District Director

*January 22, 2008*  
(Date Mailed)

cc: Timothy J. Wilson, Esq., Attorney for Charging Party  
Heather Varon, Esq., Attorney for Respondent  
(ABM Mid-Atlantic, Inc.)



08 - 221

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIN ON THE REVERSE OF THE FORM).

<b>I. (a) PLAINTIFFS</b> <b>Terry Christian</b> (b) County of Residence for First Listed Plaintiff <u>New Castle County</u> (EXCEPT IN U.S. PLAINTIFF CASES)  (c) Attorneys (Firm Name, Address, and Telephone Number)		<b>DEFENDANTS</b> <b>ABM MID-ATLANTIC, Inc.</b> County of Residence of First Listed Defendant <u>New Castle County</u> (EXCEPT IN U.S. PLAINTIFF CASES)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED  Attorneys (If Known)																			
<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)  <table style="width:100%; border: none;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 10%; text-align: center;">PTF DEF</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="width: 47%;">Incorporated <i>or</i> Principal Place of Business in This State</td> <td style="width: 10%; text-align: center;">PTF DEF</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td></td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business in Another State</td> <td></td> <td><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td></td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td></td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>		Citizen of This State	PTF DEF	<input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business in This State	PTF DEF	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State		<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business in Another State		<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country		<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation		<input type="checkbox"/> 6 <input type="checkbox"/> 6
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<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)																					
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise  <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejection <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/ Disabilities - Employment <input type="checkbox"/> 446 Amer. w/ Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence  <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality Of State Statutes																
<b>V. ORIGIN</b> (Place an "X" in One Box only)																					

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
<b>VI. CAUSE OF ACTION</b> Cite the U.S. Civil Statute under which you are filing ( <b>Do not cite jurisdictional statutes unless diversity</b> ): Title VII Brief description of cause: Discrimination based on Race						
<b>VII. REQUESTED IN COMPLAINT:</b> <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <b>DEMAND \$</b> CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No						
<b>VIII. RELATED CASE(S) IF ANY</b> (See Instruction): JUDGE DOCKET NUMBER						
DATE: 4-18-08		SIGNATURE OF ATTORNEY OF RECORD: <i>Terrell L. Christen</i>				
<b>FOR OFFICIAL USE ONLY</b>						
RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG JUDGE		

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LERK, U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2008 APR 18 PM 12:20

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 08 - 221

**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

4/18/08

(Date forms issued)

Lem Chustien

(Signature of Party or their Representative)

\_\_\_\_\_  
(Printed name of Party or their Representative)

**Note: Completed receipt will be filed in the Civil Action**